



Department of Energy
Washington, DC 20585

DEC 17 2018

Austin R. Evers
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Via email: foia@americanoversight.org

Re: HQ-2018-00271-F

Dear Mr. Evers:

This is the final response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested:

All communications between DOE and any employee or representative of any of the entities listed in Appendix A containing any of the following search terms (whether in the body or subject):

- Section 202(c)
- § 202(c)
- Section 205
- § 205
- Section 206
- § 206
- “premature retirements of power plants”
- “shall establish a tariff that provides a just and reasonable rate”
- “essential energy and ancillary reliability services”

The search for responsive records should include all individuals and locations likely to contain responsive records, including to the Office of the Secretary, the Office of the Under Secretary for Science and Energy and each of its offices, the Office of Energy Policy & Systems Analysis, and the four Power Marketing Administrations.

Please provide all responsive records from January 20, 2017, until September 28, 2017. Please note that we do not wish to obtain copies of any news or press clippings regarding these issues that are otherwise publicly available; accordingly you may omit press clippings from the documents provided to this request, unless the record includes commentary on the press coverage.



On October 25, 2018, in an email exchange with Ms. Rachel Fellows of this office, you provided DOE with the following domain names for the entities listed in Appendix A:

1. U.S. Chamber of Commerce — @uschamber.com
2. Edison Electric Institute — @eei.org
3. Nuclear Energy Institute — @nei.org
4. American Coal Council — @americancoalcouncil.org
5. National Coal Council — @nationalcoalcouncil.org
6. American Energy Alliance — @americanenergyalliance.org
7. Institute for Energy Research — @instituteforenergyresearch.org
8. American Coalition for Clean Coal Electricity — @americaspower.org
9. Peabody Energy — @peabodyenergy.com
10. American Legislative Exchange Council — @alec.org
11. Arch Coal — @archcoal.com
12. Alpha Natural Resources — @alphanr.com
13. Cloud Peak Energy — @cloudpeakenergy.com
14. SMR Start — @smrstart.org
15. American Electric Power — @aep.com
16. Heartland Institute — @heartland.org
17. Americans for Prosperity — @americansforprosperity.org
18. Murray Energy — @murrayenergycorp.com and @coalsource.com
19. First Energy — @firstenergycorp.com
20. The Southern Company — @southerncompany.com

On November 5, 2018, in an email exchange with Ms. Rachel Fellows of this office, you agreed to remove the 202(c) search terms from the request upon receiving certain documents that DOE had previously released to another requester. On November 6, 2018, in a series of six (6) emails, Ms. Fellows provided these documents to you. On November 8, 2018, you confirmed your receipt of these documents and agreed to exclude the first two (2) search terms listed in the request, “Section 202(c)” and “§ 202(c)”.

On December 3, 2018, in an email exchange with Ms. Rachel Fellows, you agreed to waive any publicly available email attachments from the request.

Your request was assigned to DOE’s Office of the Executive Secretariat (ES) and Office of Energy Policy and Systems Analysis (OP) to conduct searches of their files for responsive documents. DOE began its search on October 30, 2018, which is the cut-off date for responsive documents. DOE completed its search but did not locate any documents responsive to your request.

Therefore, pursuant to Title 10, Code of Federal Regulations (C.F.R.) § 1004.4(d), I am unable to provide any responsive documents for ES and OP. Pursuant to 10 C.F.R. § 1004.7(b)(2), I am responsible for the determination that no responsive records exist at ES and OP.

The adequacy of the search may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to Director, Office of Hearings and Appeals, HG-1, L'Enfant Plaza, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (This is the method preferred by the Office of Hearings and Appeals.). The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

You may contact DOE's FOIA Public Liaison, Alexander Morris, FOIA Officer, Office of Public Information, at 202-586-5955, or by mail at MA-46 Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

The FOIA provides for the assessment of fees for the processing of requests. *See* 5 U.S.C. § 552(a)(4)(A)(i); *see also* 10 C.F.R. § 1004.9(a). In our January 11, 2018, letter, you were advised that your request was placed in the "other" category for fee purposes. Requesters in this category are charged fees for duplication only and are provided 100 pages at no cost. Requesters in this category are entitled to two (2) free hours of search time and are provided 100 pages at no cost. In that same letter, you were informed that your request for a fee waiver had been granted. Thus, no fees will be charged for processing your request.

If you have any questions about the processing of the request or this letter, you may contact me or Ms. Rachel Fellows of my office at:

MA-46/Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 287-6831

I appreciate the opportunity to assist you with this matter.

Sincerely,



Alexander C. Morris
FOIA Officer
Office of Public Information